

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 10/31/2018 5:31:04 PM
To: McGill, Thomas [McGill.Thomas@epa.gov]; Hicks, Matt [Hicks.Matthew@epa.gov]
CC: Calli, Rosemary [Calli.Rosemary@epa.gov]
Subject: RE: proposed responses to FDEP's assumption questions

Sorry – have been in meetings till now. This looks fine. Ok to remove “potential,” so long as follow up could include Leif saying “sounds good, taking your edits.”

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: McGill, Thomas
Sent: Wednesday, October 31, 2018 1:22 PM
To: Hicks, Matt <Hicks.Matthew@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Calli, Rosemary <Calli.Rosemary@epa.gov>
Subject: RE: proposed responses to FDEP's assumption questions

It's due now, so please let me know if the following language works:

Ex. 5 Deliberative Process (DP)

From: Hicks, Matt
Sent: Wednesday, October 31, 2018 1:16 PM
To: McGill, Thomas <McGill.Thomas@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Calli, Rosemary <Calli.Rosemary@epa.gov>
Subject: RE: proposed responses to FDEP's assumption questions

Tom,

Rosemary had some proposed edits to the Ex. 5 Deliberative Process (DP) that Rosemary, Simma, and I are still mulling over. Once we get resolution on that, I will talk with Leif and propose that he follow up with David F. I don't know Leif's schedule but I'm hoping that would happen this afternoon.

We may not have any changes to David's comments on Ex. 5 Deliberative Process (DP) so please do not put that in the write-up. Also, we are very close on being able to talk with Leif so if there's any way you can postpone your write-up until then that would be helpful.

From: McGill, Thomas
Sent: Wednesday, October 31, 2018 1:06 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Calli, Rosemary <Calli.Rosemary@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>
Subject: FW: proposed responses to FDEP's assumption questions

Simma – Rosemary indicated you'll be following up with David regarding his comments below. Do you know whether you'll be able to connect with him and resolve this today, or may it take more time? I'm preparing a weekly report and welcome your suggestions on my characterization of the following write-up. Thanks. Tom

Ex. 5 Deliberative Process (DP)

From: Fotouhi, David

Sent: Tuesday, October 30, 2018 7:30 PM

To: Palmer, Leif <Palmer.Leif@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>

Cc: Glenn, Trey <Glenn.Trey@epa.gov>; Walker, Mary <walker.mary@epa.gov>; Ashbee, Blake <ashbee.blake@epa.gov>; Jenkins, Brandi <Jenkins.Brandi@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Zapata, Cesar <Zapata.Cesar@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>

Subject: RE: proposed responses to FDEP's assumption questions

My comments and suggestions are tracked in the attached document. Please let me know if you would like to discuss.

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Palmer, Leif

Sent: Thursday, October 25, 2018 7:02 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>

Cc: Glenn, Trey <Glenn.Trey@epa.gov>; Walker, Mary <walker.mary@epa.gov>; Ashbee, Blake <ashbee.blake@epa.gov>; Jenkins, Brandi <Jenkins.Brandi@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Zapata, Cesar <Zapata.Cesar@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>

Subject: FW: proposed responses to FDEP's assumption questions

Importance: High

Matt & David – as mentioned on today's OGC call we've worked out responses to FDEP's latest questions. Trey asked me to forward this to you for your thoughts.

Matt Hicks' email below provides context.

Leif Palmer
Regional Counsel
US EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

(404) 562-9542

Ex. 6 Personal Privacy (PP) (cell)

This email is from an attorney and may contain privileged information and attorney-client communications and should not be released under FOIA or discovery to individuals or entities outside of EPA or the U.S. Department of Justice without the knowledge of the sender.

From: Hicks, Matt
Sent: Tuesday, October 23, 2018 5:51 PM
To: Palmer, Leif <Palmer.Leif@epa.gov>
Cc: Ghosh, Mita <Ghosh.Mita@epa.gov>
Subject: FW: proposed responses to FDEP's assumption questions
Importance: High

Leif,

Here's EPA's proposed response to the two recent questions we received from DEP on Friday. These proposed responses were generated by the Region 4 team (Tom McGill level) after consulting with Simma (both issues) and Alexis (mitigation issue only) at OGC. DEP is waiting to hear from us before moving forward with their rulemaking so time is of the essence. More internal discussion is needed on the issue of incorporating retained waters list into EPA's Federal Register notice approving the state's program but that issue is not as time critical as the two below.

Ex. 5 AC/DP

Please call me if you'd like to discuss further.

Thanks,

Matt

From: McGill, Thomas
Sent: Tuesday, October 23, 2018 5:10 PM
To: Zapata, Cesar <Zapata.Cesar@epa.gov>
Cc: Calli, Rosemary <Calli.Rosemary@epa.gov>; Purify, Johnnie <Purify.Johnnie@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hurlid,

Kathy <Hurlid.Kathy@epa.gov>; Allenbach, Becky <Allenbach.Becky@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Parker, Christopher <Parker.Christopher@epa.gov>

Subject: proposed responses to FDEP's assumption questions

Importance: High

Cesar,

As a follow-up to our conversation yesterday, FDEP would appreciate EPA's quick feedback on questions they asked during calls held with some of EPA's assumption team members on Oct 19 and 22nd. You'll recall that I forwarded you an email from Matt Hicks on Oct 19 regarding their basic questions, and we received additional clarification with FDEP staff in a call held on Oct 22. We understand that FDEP is awaiting EPA's feedback prior to proceeding with their Notice of Proposed Rulemaking and that FDEP would prefer EPA's feedback through a conversation instead of in writing.

Attached is a document drafted by the EPA Assumption Team that includes: (1) FDEP's questions (highlighted in blue text); (2) proposed EPA responses (highlighted in yellow text); and (3) other information to provide background/context for FDEP's questions and/or the proposed responses. We would appreciate feedback from the RA and the senior leaders at OGC/OW as quickly as they can provide it before responding to FDEP.

If you have any questions or need any additional information please let us know.

Thanks.

Tom